

# **Article 6: Judicial Nominating Commissions.**

## **§ 1-601. Application process.**

(A) Upon request to the judge chairperson of the appropriate Judicial Nominating Commission, the Clerk of the Supreme Court, or the State Court Administrator, an applicant for judicial appointment will receive a Judicial Vacancy Application Package which consists of instructions to the applicant, an application for judicial vacancy form, a copy of the Nebraska Revised Code of Judicial Conduct, a personal data sheet, and a copy of these rules. Such documents, which include "Fill-in" versions of necessary forms, may also be found at and downloaded from the Nebraska Judicial Branch Web site at <http://supremecourt.ne.gov/forms>.

(B) The application, including attachments, and the personal data sheet must be filed by mail or electronically by e-mail with the commission chairperson not later than 21 days prior to the date of the public hearing. The Fair Credit Reporting Act Disclosure Statement and the Waiver of Confidentiality form attached to the application must be signed and sworn to before a notary public. Such notarized documents may be electronically submitted as a scanned document, provided that the applicant retains possession of the original bearing the required signatures and notary stamps. An applicant for any judicial vacancy may be investigated to, among other things, verify the accuracy of information provided.

(C) Submission of the documents referred to above may be by regular mail to Nebraska Supreme Court, P.O. Box 98910, Lincoln, Nebraska 68509. In the alternative, such documents may be electronically submitted by scanning the Application (which includes the Fair Credit Reporting Act Disclosure Statement and the Waiver of Confidentiality form), the personal data sheet, and the legal writing sample; saving each document as a separate PDF file; and attaching each PDF file to an e-mail sent to [nsc.jnc@nebraska.gov](mailto:nsc.jnc@nebraska.gov). It is recommended that the e-mail transmitting these documents requests acknowledgment of receipt.

(D) The personal data sheet is a confidential communication between the commission, its staff, and the applicant. However, any applicant's name forwarded to the Governor shall be accompanied by the application, personal data sheet, and results of any investigation conducted on behalf of the commission.

*Rule 1(B) amended December 21, 1994. Renumbered and codified as § 1-601, effective July 18, 2008; § 1-601(A) amended December 22, 2010, effective January 1, 2011; § 1-601(A)-(D) amended November 14, 2012.*

## **§ 1-602. Disqualification process.**

(A) If a relationship between a commission member, or the Supreme Court member who chairs the commission, and an applicant falls into one of the following four categories, the commission member or chairperson shall recuse himself or herself from the commission:

(1) Any relationship to the applicant by blood or marriage by virtue of being the applicant's spouse, child, or spouse of a child. The commission member shall not be related to the applicant under the third degree of relationship test. The third degree of relationship test is defined as being the applicant's or the applicant's spouse's parent, grandparent, aunt, uncle, sibling, nephew, or niece, or spouse of any of these relatives. Additionally, the commission member shall recuse himself or herself in situations where the applicant and commission member are sharing or have shared a residence during the past 5 years.

(2) Any arrangement involving the practice of law or an employment relationship including, but not limited to, partnership, professional corporation, or office sharing within the past 5 years.

(3) Any relationship in which the commission member and applicant are actively engaged in managing a common profitmaking business or venture.

(4) Any instance in which the member of the commission would cast his or her vote on a basis other than an applicant's qualification for the office.

(B) If the person recusing himself or herself is the Supreme Court member who chairs the commission, the Chief Justice or the next senior judge shall request the Governor to appoint another member of the Court to chair such commission meeting.

(C) Any person may challenge the impartiality of a member or the chairperson of a judicial nominating commission. The challenge shall be in writing and directed to the Supreme Court member chairing such commission. If a challenge is raised regarding the impartiality of a member or the chairperson and the person so challenged declines to disqualify himself or herself, the unchallenged members of the commission shall rule on the challenge by a majority vote. Any such decision shall be attached to the information forwarded to the Governor and attached to the report submitted to the State Court Administrator.

(D) A violation of § 1-602(A) by a commission member will not constitute cause for rescission of a judicial nomination or reopening of the commission process.

# § 1-603. Commission deliberation.

(A) Each commission member will execute the official oath and a statement of understanding, attached hereto as exhibit A.

(B) Each commission member will be provided a Nebraska Judicial Nominating Commissioner's Handbook, the contents of which shall include the American Bar Association's Guidelines for Reviewing Qualifications of Candidates for State Judicial Office and a checklist of qualifications. The qualifications checklist will be used as a guide to provide uniformity in evaluating candidates.

(C) The commission is encouraged to hold private interviews with candidates prior to or following the public hearing.

(D) The list of applicants determined to be sufficiently qualified to hold the judicial position in question shall be submitted to the Governor in alphabetical order.

## Exhibit A

### Statement of Understanding of Ethical Considerations

In the performance of their duties, the judicial nominating commission members shall be ever mindful that they hold positions of public trust. No commission member shall conduct himself or herself in a manner which reflects discredit upon the judicial selection process or discloses partisanship or partiality in the consideration of applicants. Consideration of applicants shall be made impartially, discreetly, and objectively. A commission member shall disclose to the commission all personal and business relationships with a prospective applicant that may directly or indirectly influence his or her decision. After certification of a list of sufficiently qualified applicants to the Governor, no commission member shall attempt, directly or indirectly, to further influence the ultimate decision of the Governor. No attempt shall be made to rank such nominees whose names are made public or to otherwise disclose a preference of the commission.

In accordance with the above ethical considerations, I will accept the following responsibilities:

1. I will disclose any conflict of interest that I may have with any of the applicants.
2. I will avoid preselection of nominees, "hidden agenda," or consideration of factors other than the merit of the applicants.
3. I agree not to discriminate against any applicant because of the applicant's race, religion, gender, political affiliation, age, or national origin.
4. I will not divulge any of the applicants' confidential information or the commission's deliberations except as provided by the Judicial Nominating Commission rules.

*Exhibit A amended December 21, 1994.*

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